

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
DENNIS WILSON, *et al.*,)
)
Defendants.)

Case Number: CR 05 1849 JH

**MOTION AND SUPPORTING MEMORANDUM TO EXCLUDE THE ADMISSIBILITY
OF CO-CONSPIRATOR STATEMENTS**

The Defendant, Dennis Wilson, by his attorney, Robert J. Gorence, Esq. of Gorence & Oliveros, P.C., moves this Court to exclude any alleged co-conspirator statements. In support of this motion, Defendant states:

1. On or about April 25, 2006, Mr. Wilson was charged by grand jury superceding indictment with one count of conspiracy to distribute 1,000 kilograms and more of marijuana.
2. Federal Rule of Evidence 801(d)(2)(E) identifies statements made by alleged co-conspirators as admissible if those alleged co-conspirator statements were made during the course of and in furtherance of a conspiracy.
3. The preferred method of determining the admissibility of co-conspirator statements in the Tenth Circuit is to hold a pre-trial hearing on the matter. The purpose of such a hearing is to determine whether a conspiracy existed, the defendant's participation in it, and whether the alleged statements were made in the course and scope of the conspiracy. United States v. Gonzales-Montoya, 161 F.3d 643, 648 (10th Cir. 1998).

4. Furthermore, Mr. Wilson objects to any testimonial statement, including alleged co-conspirator statements where the declarant is not available to be confronted and cross-examined, because the introduction of any such testimonial statements would violate Mr. Wilson's Sixth Amendment right to confrontation. Crawford v. Washington, 541 U.S. 36, 67, 125 S.Ct. 1354, 1374, 158 L.Ed.2d 177 (2004)
5. Because of the nature of this motion, Defendant presumes that the government is opposed to this motion.

FOR THE ABOVE REASONS, and for such reasons as may be revealed at a hearing of this matter, Defendant asks that this motion be granted.

Respectfully submitted,

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